

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DOCK McNEELY, No. C 12-1483 CW (PR)
Petitioner,
v. ORDER OF TRANSFER
KEVIN CHAPPELL, Warden,
Respondent.

Petitioner, a state prisoner incarcerated at San Quentin State Prison, has filed this pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the validity of criminal charges filed against him.

In 2000, Petitioner sought habeas corpus relief in the United States District Court for the Eastern District of California, challenging the constitutional validity of his five-year pretrial detention on criminal charges filed in Sacramento County Superior Court. The Eastern District denied relief, but the Ninth Circuit Court of Appeals found that Petitioner had been denied his constitutional right to a speedy trial, reversed the district court and ordered Petitioner's immediate release from custody, with prejudice to re-prosecution of the criminal charges. See McNeely v. Blanas, 336 F.3d 822, 832 (9th Cir. 2003).

In the instant petition, Petitioner appears to allege that he was re-arrested by Sacramento police and currently is imprisoned as a pretrial detainee on the same criminal charges, in violation of the Ninth Circuit's ruling.

A habeas petition by a state pretrial detainee properly is

1 brought under 28 U.S.C. § 2241. See Hoyle v. Ada County, 501 F.3d
2 1053, 1058 (9th Cir. 2007). In a state containing more than one
3 federal district, the petition may be filed in either the district
4 of confinement or the district of conviction. 28 U.S.C. § 2241(d).
5 Although each district has concurrent jurisdiction to entertain the
6 petition, the district court for the district where the petition is
7 filed "in the exercise of its discretion and furtherance of justice
8 may transfer the application to the other district court for
9 hearing and determination." Id.

10 Here, Petitioner is confined within the venue of the Northern
11 District, but he is challenging the validity of criminal charges
12 filed against him in the Eastern District. He maintains that those
13 charges were filed in violation of the Ninth Circuit's ruling
14 granting relief to Petitioner in his previous habeas action filed
15 in the Eastern District. Consequently, the Court finds that the
16 petition should be heard in the Eastern District.

17 Accordingly, pursuant to 28 U.S.C. § 1404(a), and in the
18 interest of justice, the Clerk of the Court is ordered to TRANSFER
19 this action forthwith to the United States District Court for the
20 Eastern District of California.

21 All remaining motions are TERMINATED on this Court's docket as
22 no longer pending in this Court.

23 IT IS SO ORDERED.

24 Dated: 4/9/2012

25 
26 CLAUDIA WILKEN
27 UNITED STATES DISTRICT JUDGE
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